IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL WRIT PETITION NO.69 OF 2005

Suryakant Shyamrao Kale : Petitioner.

versus

1. Sarang Chandulal Shah & Anr. : Respondents.

Mr.P.G.Chavan h/f Mr.S.S.Patwardhan for the petitioner.

Mr.Umesh Mankapure i/by Mr.R.V.More for Respondent No.1.

Smt.V.R.Bhosale, APP, for State.

CORAM : D.G.DESHPANDE, J.

DATED : MARCH 18, 2006.

P.C.

1. Heard advocates for the petitioner and respondent No.1. Petitioner is an accused in a case filed against him under Section 138 of the Negotiable Instruments Act. Complainant was examined. He was cross-examined. Thereafter,

the accused applied for recalling the witness. That application was rejected. Hence this petition.

2. Looking to the controversy involved and the issue, I do not find any reason for Magistrate to reject the application. It cannot be said that the accused was tried to prolong the matter. Therefore, the impugned order is set aside. Complainant will be recalled for cross examination and will be offered to the accused for cross examination subject to accused paying costs of Rs.1000/- to the complainant. Payment of costs is a condition precedent. Costs should be paid before the complaint enters the witness-box again for further cross examination. Petition is disposed of.

[D.G.DESHPANDE]